

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 389 - HB 453

March 15, 2015

SUMMARY OF BILL: Adds to the list of unfair trade practices with regards to insurance provisions. An insurance policy cannot include a provision that would, 90 days from date the claim was filed with the insurer, prohibit an insured party from seeking legal restitution in regards to an unsettled claim or that would require alternative dispute resolution prior to filing a court action. Also prohibits any insurance provision from requiring the insured to complete repairs prior to the settlement of a claim. No provision shall favor the insurer against the insured. Establishes that an unfair claims practice includes the failure of an insurer to acknowledge pertinent communications about a claim within 15 days from the date the communication was received.

Authorizes any insured party to file a lawsuit against an insurer whom the insured believes has knowingly misrepresented relevant facts or policy provisions; has included within a policy, provisions that favor the insurer against the insured; or has failed to acknowledge pertinent communications about a claim within 15 days from the date the communication was received. If the court finds that such suit is substantiated, and the insurer has willfully committed an unfair trade practice, the court is authorized to award three times the actual damages sustained and may provide other relief as it considers necessary and proper.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- The Department of Commerce and Insurance, Division of Consumer Affairs receives consumer complaints and seeks to help resolve disputes prior to any case being taken to a court of law.
- This legislation is assumed to have no significant effect on the number of complaints the Division receives involving violations of unfair trade practices, nor will it have a significant effect on cases heard by courts of competent jurisdiction.

IMPACT TO COMMERCE:

NOT SIGNIFICANT

Assumptions:

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- Any business that is found guilty by a court of law of committing unfair trade practices related to knowingly misrepresenting relevant facts or policy provisions; including within a policy, provisions that favor the insurer against the insured; or failing to acknowledge pertinent communications about a claim within 15 days from the date the communication was received may be liable for over three times the amount of actual damages sustained by the plaintiff. This would increase expenses for businesses found guilty of such unfair trade practices.
- Any increase in business expenses that would have otherwise been awarded by a court of law is unable to be determined, but is assumed to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "Jeffrey L. Spalding". The signature is written in a cursive, flowing style.

Jeffrey L. Spalding, Executive Director

/jdb